

MINUTES OF THE HOUSE FINANCIAL INSTITUTIONS COMMITTEE

The meeting was called to order by Chairman Ray Cox at 3:30 p.m. on February 16, 2004 in Room 527-S of the Capitol.

All members were present except:

Representative Tom Burroughs - excused  
Representative Larry Campbell- excused

Committee staff present:

Bruce Kinzie, Revisor's Office  
Bill Wolff Legislative Research Department  
Maggie Breen, Secretary

Conferees appearing before the committee: Chuck Stones, Kansas Bankers Association  
Pam Scott, Funeral Directors Association  
Matt Goddard, Heartland Community Bankers Association  
Dennis, Priest, SRS

Others attending:

See Attached List.

Chairman Cox opened the hearing on HB 2781- Prearranged funeral arrangements, contracts or plans.

Proponents:

**Chuck Stones**, Kansas Bankers Association, said that in a prearranged funeral account situation, if the customer/recipient of that account had received assistance from the SRS, and there is money left over in that account after all the bills have been paid, that money is to be paid back to the SRS. The bill clarifies that written notification that the customer/recipient has received assistance must be sent to the financial institution. The notification needs to be from the SRS, the funeral home, or the customer/recipient themselves. HB 2781 also clarifies that the bank shall not be liable to the SRS for the balance in the account if written notice has not been received and the balance has already been paid to the estate of the purchaser of the account. (Attachment 1)

**Pam Scott**, Funeral Directors Association, appeared in support of HB2781. It clarifies current statutes concerning state recovery of prearranged funds. In 2002, Sub for SB 513 was passed to put into place the procedure for recovering excess funds from prearranged funeral agreements. In it the recipient of medical assistance is required to provide notice of this to the funeral home. Since then, questions have arisen in cases where they have not notified the funeral home or finance institution. And there has been some question as to whether the financial institution is liable if they release the funds to anyone other than the SRS. This bill clears up the notification process and liability. (Attachment 2)

**Matt Goddard**, Heartland Community Bankers Association, said that there is some ambiguities in the way the law is written and how these things are handled. He agrees that there is a race to get the money and with the other proponents' testimonies. He encouraged the support of the committee. (Attachment 3)

**Dennis Priest**, Department of Social and Rehabilitation Services - Program Administrator, who has oversight of the Estate Recovery Program, testified that this legislation clarifies notice requirements for the Department's estate recovery process, for the recoveries of excess funds in a deceased medical recipient's funeral agreement. As the other proponents have already said, there is no formal notification process and this legislation helps clarify the process. He said it is an issue of fairness and he thinks there would be a small positive fiscal note of about \$28,000 if the bill is enacted. (Attachment 4)

Chairman Cox closed the hearing on HB 2781.

CONTINUATION SHEET

MINUTES OF THE HOUSE FINANCIAL INSTITUTIONS COMMITTEE at 3:30 p.m. on February 16, 2004 in Room 527-S of the Capitol.

Chairman Cox opened the hearing on **SB 338 - Liens; change perfection period for certain liens to 60 days.**

Proponent:

**Doug Wareham**, Kansas Agribusiness Retailers Association, appeared in support of the bill. It extends the time period in which a supplier can perfect an agricultural production input lien from 20 days to 60 days. The term supplier is defined in the statute as a person who furnished agricultural production inputs, which includes: fertilizers, ag-chemicals, seed and other crop production inputs. The change is being sought because the current 20 day restriction requires the crop input suppliers to file a lien before the farmer customer has been greater than 30 days past due on any payment owed for crop inputs or related services. The suppliers don't want to file liens on people if they don't have to. (**Attachment 5**)

Chairman Cox closed the hearing on **SB 338.**

Chairman Cox said the committee would work **HB 2781, SB 338, and HB 2635 - UCCC, additional charges, insufficient check charges, notice.**

Representative Goico moved to pass **HB 2781** out favorably. Representative Dillman seconded the motion. The motion carried.

Representative Grant moved to pass **SB 338** out favorably. Representative Lane seconded the motion. The motion carried.

Representative Dreher moved to amend **HB 2635** with **Substitute for HB 2635.** Representative Goico seconded the motion. The motion carried. Representative Grant moved to pass **Substitute for HB 2635.** Representative Lane seconded the motion. The motion carried.

Representative Grant moved to approve the minutes of the February 11<sup>th</sup> meeting as corrected. Chairman Cox said that, without exception, the corrected minutes would be approved.

The meeting adjourned at 4:05 p.m.

The next meeting is scheduled for February 18.





**The Kansas Bankers Association**

2-16-04

TO: House Financial Institutions Committee  
FROM: Chuck Stones, Senior Vice President

RE: HB 2781

Mr. Chairman and Members of the Committee,

The Kansas Bankers Association appreciates this opportunity to appear before you in support of HB 2781.

HB 2781 would amend KSA 2003 Supp 16-304 and 16-311, to clarify that if a balance remains in a prearranged funeral agreement account after the funeral home has been paid, and the bank has received written notice from either the SRS, the funeral home or the customer/recipient, that medical assistance has been received by the customer/recipient for which the SRS may have a claim, then the balance shall be paid to the SRS to the extent of the assistance expended on the deceased customer/recipient.

The bill would also clarify that the bank shall not be liable to the SRS for the balance in the account if written notice has not been received and the balance has already been paid to the estate of the purchaser of the account.

Thank you for the opportunity to appear before you and we urge your favorable consideration.



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PAM SCOTT  
Topeka

February 16, 2004

To: House Committee on Financial Institutions

From: Pam Scott

Re: House Bill No. 2781

Chairman Cox and members of the Committee, on behalf of the Kansas Funeral Directors and Embalmers Association (KFDA) I appear before you today in support of House Bill No. 2781.

The KFDA believes House Bill No. 2781 would clarify current statutes dealing with the recovery, by the Kansas Department of Social and Rehabilitation Services (SRS), of excess funds remaining in prearranged funeral agreements, contracts or plans once funeral services are provided and paid for from said funds.

Typically, funds remaining in a prearranged funeral account are paid to the estate of a deceased by a financial institution, insurance company or funeral home if there is no claim to the funds by the Estate Recovery Unit of SRS. Since the passage of Substitute for Senate Bill No. 513 in 2002, questions have arisen as to whether a financial institution, insurance company or funeral home should be liable to SRS in cases where, excess funds are paid to the estate of a deceased because they had no knowledge the deceased was a recipient of medical assistance or that SRS had a claim against the excess funds remaining. We believe that was not the intent of the law passed in 2002, which was passed with our support.

Funeral homes do want to fully cooperate with SRS's efforts to recover excess funds. They do not believe, however, that they should be penalized or held liable when, in good faith, they have paid excess funds to the estate of the deceased rather than SRS. In those cases SRS still has the ability to file a claim against the estate of the deceased for recovery of the excess funds.

We believe the amendments contained in this bill help clarify the original intent of the 2002 legislation and would ask for your support of House Bill No. 2781.



Matthew S. Goddard, Vice President

700 S. Kansas Ave., Suite 512  
Topeka, Kansas 66603  
Office (785) 232-8215 • Fax (785) 232-9320  
mgoddard@hcbankers.com

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To: House Financial Institutions Committee

From: Matthew Goddard  
Heartland Community Bankers Association

Date: February 16, 2004

Re: House Bill No. 2781

The Heartland Community Bankers Association appreciates the opportunity to express our support for House Bill 2781 to the House Committee on Financial Institutions.

Under Kansas law, the funds for any prearranged funeral agreement must be deposited with a federally insured financial institution. The law also requires that, following the payment of funeral expenses, the financial institution holding those funds must pay any remaining balance to the estate of the purchaser of the agreement, unless the Department of Social and Rehabilitation Services provided medical assistance to the deceased or a deceased spouse. In that case, the remaining balance is payable to SRS.

House Bill 2781 requires SRS, the funeral home or the purchaser of a prearranged funeral agreement to provide written notice to the financial institution that medical assistance was provided and SRS may have a claim to any remaining balance in the account. Under present law, there is no formal process or method for the financial institution to receive this information. House Bill 2781 will resolve this by requiring the written notice. To address longstanding concerns about the liability of financial institutions, the bill also states that the financial institution is not liable to SRS if it does not receive the required written notice.

The Heartland Community Bankers Association respectfully requests that the House Financial Institutions Committee recommend HB 2781 favorable for passage.

Thank you.

Kansas Department of

# **Social and Rehabilitation Services**

Janet Schalansky, Secretary

**House Financial Institutions Committee**  
February 16, 2003

**Testimony Regarding House Bill 2781**

**Integrated Service Delivery**  
Candy Shively, Deputy Secretary  
785-296-3271

For additional information contact:  
**Public and Governmental Services Division**  
**Tanya Dorf, Director of Legislative Affairs**

Docking State Office Building  
915 SW Harrison, 6<sup>th</sup> Floor North  
Topeka, Kansas 66612-1570  
phone: 785.296.3271  
fax: 785.296.4685  
[www.srskansas.org](http://www.srskansas.org)

House Financial Institutions  
2-16-04  
Attachment 4

**Kansas Department of Social and Rehabilitation Services**  
**Janet Schalansky, Secretary**

House Financial Institutions Committee  
February 16, 2004

**Testimony Regarding House Bill 2781**

Mr. Chairman and members of the Committee, thank you for the opportunity to testify regarding HB 2781. My name is Dennis Priest, Program Administrator within the Kansas Department of Social and Rehabilitation Services. This legislation clarifies notice requirements for recoveries from excess funds in a deceased medical assistance recipient's funeral agreement, based on the Department's estate recovery process.

As background, the Estate Recovery Program was initially authorized by the Kansas Legislature in 1992 and has since become a federally mandated process. The program allows the agency to recover Medicaid expenses properly paid on behalf of a Medicaid recipient from their post-death assets. The program is limited to recipients who are either 55 years of age or older or in a long term care arrangement. Most recoveries are from probate actions and family agreements. Significantly, no recovery action is taken when there is a surviving spouse or a minor or disabled child. Kansas Estate Recovery recouped over \$5.5 million during FY 2003 and approximately \$25 million during the last five fiscal years. Approximately 40% of the recouped funds were returned to the State general fund; the remaining funds were returned to the federal government.

In 2002, the Legislature passed amendments to K.S.A. 16-301 et seq. involving excess funds from pre-arranged funeral plans owned by medical assistance recipients. The legislation provided for funds remaining after the payment of a recipient's funeral to be forwarded to the Department as partial satisfaction of the medical assistance claim. The legislation has been successful. In the period of July 1, 2002 to June 30, 2003, the Estate Recovery Program has recovered almost \$287,000 from 320 cases. For the first six months of FY 2004, the program has collected approximately \$120,000 from 180 cases.

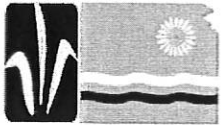
As initially enacted in 2002, this legislation gave the owner of the funeral plan responsibility for notifying funeral homes, financial institutions and insurance companies about the right of the State to recoup excess funds due to estate recovery requirements. While generally successful, there have been situations where the notice was less than complete, resulting in excess funds being paid to other family members or contingent beneficiaries. To insure better notification, HB 2781 modifies the law to allow a written notice to be given at any time by the individual recipient, the funeral home or SRS.

The medical assistance program encourages families to pre-arrange their funerals and burials by allowing such funds and assets to be excluded in eligibility determination. However, when there are excess assets, those assets should be available to the State to offset the cost of operation of the medical assistance program. Clarification of notice requirements addressed by this bill, reduces the likelihood of manipulation of the law to avoid recoupment. Our goal is to be fair to all individuals and families impacted by the estate recovery process while still allowing for enhanced collections in an accurate and equitable manner. This bill would allow us to meet this goal.

Thank you for the opportunity to present. I would be happy to stand for questions.



# KANSAS AGRIBUSINESS RETAILERS ASSOCIATION



KARA is  
*"Committed to  
Professional  
Development  
and Business  
Viability for  
the Retail Crop  
Production  
Industry"*

Statement of the

Kansas Agribusiness Retailers Association

Presented to the

House Financial Institutions Committee

Rep. Ray Cox, Chairman

February 16, 2004

Presented by

Doug Wareham  
Senior Vice President

Kansas Agribusiness Retailers Association  
(785) 234-0463

Chairman Cox and Members of the House Financial Institutions Committee I am Doug Wareham appearing on behalf of the Kansas Agribusiness Retailers Association (KARA). KARA's membership includes nearly 750 agribusiness firms that are primarily retail facilities that supply fertilizers, crop protection chemicals, seed, petroleum products and agronomic expertise to Kansas farmers. KARA's membership base also includes ag-chemical and equipment manufacturing firms, distribution firms and various other businesses associated with the retail crop production industry. I appear before you in support of S.B. 338.

Senate Bill 338 amends K.S.A. 58-244 by extending the time period in which a supplier can perfect an agricultural production input lien from 20 days to 60 days. For your information, the term "supplier" is defined as a person who furnishes agricultural production inputs, which includes fertilizers, ag-chemicals, seed and other crop production inputs. This change is being sought because the current 20 day restriction requires the crop input supplier to file a lien before the farmer customer has been greater than 30 days past due on any payment owed for crop inputs and/or related services.

By allowing the crop input supplier this additional time, we believe some liens that otherwise may have been filed, will not. We do believe the ability to file and perfect a crop input lien should be afforded to suppliers that feel the need to seek financial protection once a debtor is past 30 days on payment for purchased products or services.

I have attached copies of the UCC-4 Form, which is utilized by crop input suppliers, as well as the UCC-1 (Financing Statement) and UCC 1 Addendum which are required as supplement information when a crop input lien is filed with the Secretary of State's office. I want to note that the UCC-4 does require the signature of the debtor (farmer), so they are fully aware of the lien being filed for the crop inputs they have purchased.

I do want to mention that our review of the statutes relating to agricultural production input liens (K.S.A. 58-241 through 58-246) and subsequent meetings/discussions with the Kansas Secretary of State's Business Services Department Staff has identified the fact that there are statutory references changes and other possible changes that need to be made to bring the agricultural production lien statutes in sync with the recent changes the Kansas Legislature has adopted regarding the Uniform Commercial Code.

Our general counsel will work with the Secretary of State's office, the Kansas Bankers Association and any other stakeholders that are interested in pursuing a more thorough review of these statutes to ensure they are consistent with other Kansas laws pertaining to the UCC and filing of liens. At this time, we do ask for the committee's action on this bill, because we believe the benefits of this proposed change should be realized as soon as possible.

I appreciate the opportunity to appear in support of S.B. 338 and I would be happy to stand for questions.

**Contact Information**

Kansas Secretary of State  
**Ron Thornburgh**  
Memorial Hall, 1st Floor  
120 S.W. 10th Avenue  
Topeka, KS 66612-1594  
(785) 296-4564  
kssos@kssos.org  
www.kssos.org

**KANSAS SECRETARY OF STATE  
Agriculture Production Input Lien**

**UCC-4**

All information must be completed or this document will not be accepted for filing.

1. Name and residential address of agricultural input purchaser:

Name	Street Address	City	State	Zip

2. Name and address of supplier claiming lien:

Name	Street Address	City	State	Zip

3. Date or anticipated date of furnishing the input: \_\_\_\_\_

4. Description of the input:

\_\_\_\_\_  
\_\_\_\_\_

5. Retail cost or anticipated retail cost of input: \$ \_\_\_\_\_

6. Name and residential address of crop owner (if different from purchaser):

Name	Street Address	City	State	Zip

7. Name and business address of lender:

Name	Street Address	City	State	Zip

8. Description of real estate where crops are growing or will be grown (if applicable):

*Note: The products or proceeds of the crops are covered by the lien.*

\_\_\_\_\_

9. Describe livestock and location where they will be or are being raised or fed (if applicable):

*Note: The products or proceeds of the livestock are covered by the lien.*

\_\_\_\_\_

Purchaser's Signature _____	Day _____	Month _____	Year _____
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Supplier's Signature _____	Date notice sent to lender _____	Day _____	Month _____	Year _____
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By signing here, the undersigned certifies that the lender has not responded to the lien notification statement

**UCC FINANCING STATEMENT**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]

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B. SEND ACKNOWLEDGMENT TO: (Name and Address)

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME

OR

1b. INDIVIDUAL'S LAST NAME

FIRST NAME	MIDDLE NAME	SUFFIX
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1c. MAILING ADDRESS

CITY	STATE	POSTAL CODE	COUNTRY
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1d. <u>SEE INSTRUCTIONS</u>	ADD'L INFO RE ORGANIZATION DEBTOR	1e. TYPE OF ORGANIZATION	1f. JURISDICTION OF ORGANIZATION	1g. ORGANIZATIONAL ID #, if any
				<input type="checkbox"/> NONE

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME

OR

2b. INDIVIDUAL'S LAST NAME

FIRST NAME	MIDDLE NAME	SUFFIX
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2c. MAILING ADDRESS

CITY	STATE	POSTAL CODE	COUNTRY
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2d. <u>SEE INSTRUCTIONS</u>	ADD'L INFO RE ORGANIZATION DEBTOR	2e. TYPE OF ORGANIZATION	2f. JURISDICTION OF ORGANIZATION	2g. ORGANIZATIONAL ID #, if any
				<input type="checkbox"/> NONE

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME

OR

3b. INDIVIDUAL'S LAST NAME

FIRST NAME	MIDDLE NAME	SUFFIX
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3c. MAILING ADDRESS

CITY	STATE	POSTAL CODE	COUNTRY
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4. This FINANCING STATEMENT covers the following collateral:

5. ALTERNATIVE DESIGNATION (if applicable):  LESSEE/LESSOR  CONSIGNEE/CONSIGNOR  BAILEE/BAILOR  SELLER/BUYER  AG. LIEN  NON-UCC FILING

6.  This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS. Attach Addendum  if applicable

7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) [ADDITIONAL FEE]  [optional]

8. OPTIONAL FILER REFERENCE DATA  All Debtors  Debtor 1  Debtor 2

# UCC FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

## 9. NAME OF FIRST DEBTOR (1a or 1b) ON RELATED FINANCING STATEMENT

9a. ORGANIZATION'S NAME

OR

9b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME, SUFFIX

## 10. MISCELLANEOUS:

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

## 11. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one name (11a or 11b) - do not abbreviate or combine names

11a. ORGANIZATION'S NAME

OR

11b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

## 11c. MAILING ADDRESS

CITY

STATE

POSTAL CODE

COUNTRY

## 11d. SEE INSTRUCTIONS

ADD'L INFO RE ORGANIZATION DEBTOR

## 11e. TYPE OF ORGANIZATION

## 11f. JURISDICTION OF ORGANIZATION

## 11g. ORGANIZATIONAL ID #, if any

NONE

## 12. ADDITIONAL SECURED PARTY'S or ASSIGNOR S/P'S NAME - insert only one name (12a or 12b)

12a. ORGANIZATION'S NAME

OR

12b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

## 12c. MAILING ADDRESS

CITY

STATE

POSTAL CODE

COUNTRY

13. This FINANCING STATEMENT covers  timber to be cut or  as-extracted collateral, or is filed as a  fixture filing.

14. Description of real estate:

## 16. Additional collateral description:

15. Name and address of a RECORD OWNER of above-described real estate (if Debtor does not have a record interest):

17. Check only if applicable and check only one box.

Debtor is a  Trust or  Trustee acting with respect to property held in trust or  Decedent's Estate

18. Check only if applicable and check only one box.

Debtor is a TRANSMITTING UTILITY

Filed in connection with a Manufactured-Home Transaction — effective 30 years

Filed in connection with a Public-Finance Transaction — effective 30 years